

EXPLOSIVE SERVICES, INC.,)	AGBCA No. 99-142-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Greg Rogers)	
Explosive Services, Inc.)	
P.O. Box 37)	
Lima, Montana 59739)	
)	
Representing the Government:)	
)	
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Office of the General Counsel)	
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P.O. Box 7669)	
Missoula, Montana 59807)	

DECISION OF THE BOARD OF CONTRACT APPEALS

 May 20, 1999

OPINION BY ADMINISTRATIVE JUDGE JOSEPH A. VERGILIO

On February 11, 1999, the Board received this appeal from Explosive Services, Inc. (Appellant) of Lima, Montana, concerning the Antone Trail 44 construction project, Contract No. 43-0356-7-0081, with the U. S. Department of Agriculture, Forest Service (Respondent or Government). The contract required the construction of approximately 4 miles of hiker and horseback trail (including clearing, excavating, and drainage) in the Madison Ranger District of the Beaverhead-Deerlodge National Forest, Beaverhead County, Montana. Following an agreed-upon delay to the start of performance, the contractor failed to provide payment protections required under the contract. The contractor left unclaimed a certified letter containing the notice to proceed under the contract. The Government issued a termination for default of the contract. The contractor here disputes the propriety of the termination for default.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act (CDA), 41 U.S.C. §§ 601-613, as amended.

The Board held two telephone conferences with the parties. The Government submitted the appeal file. The parties have discussed the dispute. The Government has concluded that the procurement has resulted in a price difference of less than \$20 and some delay in project completion. The Contracting Officer (CO) will not pursue the termination for default. The CO has converted the

termination for default to a “mutual termination”--a no-cost termination for the convenience of the Government. This CO action resolves the matter in dispute. The parties request that the Board dismiss with prejudice this appeal.

DECISION

The Board dismisses with prejudice this appeal.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
May 20, 1999